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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/538,611	03/29/2000	Anoop Gupta	MS1-278US	8373
22801	7590	05/06/2004	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			TODD, GREGORY G	
			ART UNIT	PAPER NUMBER
			2157	9
DATE MAILED: 05/06/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/538,611	GUPTA ET AL.	
	Examiner	Art Unit	
	Gregory G Todd	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 06 February 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-29, 31 and 34-39 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-29, 31 and 34-39 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 29 March 2000 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Response to Amendment

This is a second office action in response to applicant's amendment filed, 06 February 2004, of application filed, with the above serial number, on 29 March 2000 in which claims 27, 34, and 39 have been amended and claims 30, 32, 33, 37, and 40-42 have been cancelled. Claims 1-29, 31, and 34-39 are therefore pending in the application.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the compressing a presentation timeline; omitting selected frames; & altering each media stream of the plurality must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 7-13, 17-20, 25-29, 31, and 34-39 are rejected under 35

U.S.C. 102(e) as being anticipated by Ogden et al (hereinafter "Ogden", 6,161,137).

4. As per Claim 1 and 12, Ogden discloses a method and computer-readable memory for use in a client computer, wherein Ogden discloses:

detecting when a media stream received from a server computer in the network system has become globally unsynchronized with a corresponding media, stream being streamed to another client computer (dynamically and adaptively transmitting for synchronous, real-time presentation stream between clients) (at least col. 3, lines 30-63); and

altering a presentation of the media stream in order to resynchronize the media stream (dynamically and adaptively transmitting for synchronous, real-time presentation stream between clients) (at least col. 3, lines 30-63).

5. As per Claim 2.

wherein the altering includes altering the media stream (at least col. 3, lines 30-63).

6. As per Claim 7.

jumping ahead to a later presentation time (skip portion of presentation) (at least col. 25, lines 63-14).

7. As per Claim 8.

pausing the presentation of the media stream (at least col. 13, lines 2-19; col. 25, lines 5-13).

8. As per Claim 9.

storing at least a portion of the media stream in a data buffer (at least col. 27, lines 17-19; col. 6, lines 9-26); and

wherein the detecting comprises comparing the amount of data stored in the data buffer with a threshold (segment amount being timely cached) (at least col. 6, lines 9-26).

9. As per Claim 10 and 25.

detecting when the media stream has been globally resynchronized (dynamically and adaptively transmitting for real-time presentation stream between clients) (at least col. 3, lines 30-63); and

altering the presentation of the media stream when the media stream has been globally resynchronized (adaptively transmitting for simultaneous presentation stream) (at least col. 3, lines 30-63).

10. As per Claim 11 and 26.

wherein the altering of the presentation timeline of the media stream when the media stream has been globally resynchronized comprises altering the presentation timeline to be the same as it was when the media stream was globally unsynchronized (control signals to sync for simultaneous presentation) (at least col. 3, lines 30-63; col. 6, lines 9-26; col. 4, lines 24-40).

11. As per Claim 13, Ogden discloses an apparatus for use in a network system, wherein Ogden discloses:

a receiving component to receive a plurality of media streams from a server computer in the network system (dynamically and adaptively transmitting for synchronous, real-time presentation stream between clients) (at least col. 3, lines 30-63; col. 2, lines 49-66);

a synchronizing component, coupled to the receiving component, to determine if the plurality of media streams have become globally unsynchronized (dynamically and adaptively transmitting for synchronous, real-time presentation stream between clients) (at least col. 3, lines 30-63); and

a timeline modification component, coupled to the synchronizing component, to alter the presentation timeline of at least one of the media streams if the plurality of media streams become globally unsynchronized (audio / video segments sync for dynamically and adaptively transmitting for synchronous, real-time presentation stream between clients) (at least col. 4, lines 24-40; col. 6, lines 9-26; col. 3, lines 30-63).

12. As per Claim 17, Ogden discloses a computer-readable storage medium containing a program for resynchronizing a media stream, wherein Ogden discloses:

receiving, from a server computer in the network, a composite media stream including a plurality of media streams (presentation consisting of one or more segments) (at least col. 2, lines 36-42);

detecting when the plurality of media streams have become globally unsynchronized (dynamically and adaptively transmitting for synchronous, real-time presentation stream between clients) (at least col. 3, lines 30-63); and
altering a timeline of at least one of the media streams in order to resynchronize the media streams (audio / video segments sync for dynamically and adaptively transmitting for synchronous, real-time presentation stream between clients) (at least col. 4, lines 24-40; col. 6, lines 9-26; col. 3, lines 30-63).

13. As per Claim 18.

wherein the detecting comprises comparing current presentation times of the plurality of media streams to one another, and wherein the altering comprises altering the media stream of the plurality of media streams having a presentation time that is lagging behind the presentation times of one or more of the other media streams (halting / skipping portion of presentation running behind) (at least col. 25, lines 5-13, 63-14).

14. As per Claim 19.

wherein the detecting comprises comparing current presentation times of the plurality of media streams to one another, and wherein the altering comprises altering the media stream of the plurality of media streams having a presentation time that is ahead of the presentation times of one or more of the other media streams (halting / skipping portion of presentation running behind) (at least col. 25, lines 5-13, 63-14).

15. As per Claim 20.

wherein the altering comprises altering each media stream of the plurality of media streams (first and second segments being synchronized) (at least col. 3, lines 30-63).

16. As per Claim 27 and 31, Ogden discloses a method and computer-readable medium for use in a server computer of a network, wherein Ogden discloses:

identifying when a media stream corresponding to media content being provided to a client computer has become globally unsynchronized (dynamically and adaptively transmitting for synchronous, real-time presentation stream between clients) (at least col. 3, lines 30-63); and

selecting, in response to identifying the media stream is globally unsynchronized, a different media stream corresponding to the media content to provide to the client computer (not timely cached...alternate segment is requested) (at least col. 3, lines 30-63; col. 2, lines 36-66; col. 6, lines 9-26);

identifying when the media stream has been resynchronized (real time version detection) (at least col. 3, lines 24-63); and

selecting another media stream corresponding to the media content to provide to the client computer (third content webserver segments) (at least col. 3, lines 30-63).

17. As per Claim 28 and 35.

receiving an out of synchronization message from the client computer (alternate segment data request) (at least col. 6, lines 9-26).

18. As per Claim 29 and 36.

selecting a media stream having a faster rendering speed than the globally unsynchronized stream (variation of presentation based on bandwidth / speed) (at least col. 5, lines 32-39; col. 6, lines 9-26).

19. As per Claim 34, Ogden discloses a computer-readable storage medium containing a program for resynchronizing a media stream, wherein Ogden discloses:

providing, to a client computer, a composite media stream corresponding to media content, the composite media stream including a plurality of media streams (at least col. 2, lines 36-66);

identifying when a media stream of the plurality of media streams has become globally unsynchronized (dynamically and adaptively transmitting for synchronous, real-time presentation stream between clients) (at least col. 3, lines 30-63; col. 2, lines 49-66); and

selecting, when the media stream becomes globally unsynchronized, a different media stream corresponding to the media content to provide to the client computer (dynamically and adaptively transmitting for synchronous, real-time presentation stream between clients) (at least col. 3, lines 30-63);

identifying when the media stream has been resynchronized (real time version detection) (at least col. 3, lines 24-63); and

selecting another media stream corresponding to the media content to provide to the client computer (third content webserver segments) (at least col. 3, lines 30-63).

20. As per Claim 38, Ogden discloses a networked client/server system, wherein Ogden discloses:

a network server (at least col. 3, lines 38-44);

a plurality of network clients that communicate with the network server over a data communications network (at least col. 3, lines 38-44);

a plurality of composite media streams available from the network server, each composite media stream comprising a plurality of individual media streams that can be rendered by the network clients to produce different types of user perceivable media (at least col. 2, lines 25-35); and

the network clients each including a synchronizing component to determine if one of the individual media streams is out of synchronization with a corresponding media stream at another of the plurality of network clients, and a timeline modification component to alter the timeline of an individual media stream when it is out of synchronization (dynamically and adaptively transmitting for synchronous, real-time presentation stream between clients) (at least col. 3, lines 30-63).

21. As per Claim 39, Ogden discloses a method for use in a server computer of a network, wherein Ogden discloses:

identifying when a media stream corresponding to media content being streamed to a client computer has become globally unsynchronized (dynamically and adaptively transmitting for synchronous, real-time presentation stream between clients) (at least col. 3, lines 30-63); and

altering, in response to identifying the media stream is globally unsynchronized, the streaming of data to the client computer in order to globally resynchronize the media stream by jumping ahead to a later time in the media stream corresponding to the later time to the client computer (skip portion of presentation) or pausing the streaming of data to the client computer (dynamically and adaptively transmitting for synchronous, real-time presentation stream between clients) (at least col. 3, lines 30-63; col. 25, lines 63-14; col. 13, lines 2-19; col. 25, lines 5-13)

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claims 3-6, 14-16, and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogdon in view of Carmel et al (hereinafter "Carmel", 6,397,230).

24. As per Claim 3, 14, and 21.

Ogdon fails to explicitly disclose compressing a presentation timeline of the media stream. However, the use and advantages for using such a synchronous communication is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Carmel (at least col. 13, lines 25-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate and implement the use of presentation compression of a portion of

a composite stream as this is a very well know method to synchronize an unsynchronized stream or presentation.

25. As per Claim 4 and 22.

Ogdon fails to explicitly disclose increasing the speed at which the media stream is rendered. However, the use and advantages for using such a synchronous communication is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Carmel (at least col. 13, lines 4-45). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate and implement the use of compensating for a delay by increasing speed of a portion of a composite stream as this is a very well know method to synchronize an unsynchronized stream or presentation.

26. As per Claim 5, 15, and 23.

Ogdon fails to explicitly disclose omitting selected frames from the media stream. However, the use and advantages for using such a synchronous communication is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Carmel (at least col. 13, lines 16-24). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate and implement the use of removing frames of a portion of a composite stream as this is a very well know method to synchronize an unsynchronized stream or presentation.

27. As per Claim 6, 16, and 24.

Ogdon fails to explicitly disclose using time-scale-modification to remove data from or add data to the media stream. However, the use and advantages for using such a synchronous communication is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Carmel (at least col. 13, lines 16-24). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate and implement the use of removing data frames of a portion of a composite stream as this is a very well known method to synchronize an unsynchronized stream or presentation.

Response to Arguments

28. Applicant's arguments filed 06 February 2004 have been fully considered but they are not persuasive.
29. Applicants traverse examiner's objections to the drawings. Applicants arguments are not persuasive.

Applicants argue "compressing a presentation timeline" as being disclosed in Fig. 4, and pages 17-18 with regard to determining effective time modification factor 136 and modify timeline according to new modification factor 146. There is nothing in the drawings or on these pages to suggest *compressing* a timeline; further, steps 136 and 146 do not correspond to each other as step 144 discloses determining a *new* time modification factor.

Applicants argue "omitting selected frames" as being disclosed in Fig. 3 and page 16, lines 4-16. While there are separate video and audio timeline modification

components in this Figure, there is nothing in the figure to suggest omitting frames, nevertheless frames to be *selected*, from a media stream; further, the figures do not disclose anything about frames. While the specification does support this feature, every feature in the claims must be in the drawings or the claims cancelled.

Applicants argue “altering each media stream of the plurality” as being disclosed in Fig. 4, page 19 with regard to steps 138 and 138. While the specification does disclose altering one media stream, the figures do not suggest altering *each* media stream and further there is nothing in the drawings to suggest there being a plurality of streams.

30. Applicants traversal to examiner's objections to the drawings of receiving an “out of synchronization message” is persuasive and the objection has been withdrawn.

31. Applicants argue, in substance, that Ogdon fails to disclose using the method in a client computer or having been executed on a client computer.

In response to applicant's arguments, the recitation for use in a client computer has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

As applicant notes, Ogdon discloses one or more presentation controlling network connected nodes (aka "host nodes") provided to transmit presentation controlling commands to the client. These controlling commands are transmitted to the client and are commands for the client to perform, where each client then selects a segment for presenting (at least col. 4, lines 29-40; col. 3, lines 38-63), thus the client altering the presentation.

Further, the client performing the timeline modification as opposed to the server presents possibility of **Restriction** between claims, as all independent claims specify either a server or client performing such modification, with no instances of neither or both the server and client performing the modification. The specification discloses a computer to be used as a network node or *host* (similarly to Ogdon) in accordance with the invention, wherein said computer can perform functions of either a client or server (at least p. 8, lines 18-21) and that if the server does not include multiple composite streams, the client performing the alteration (at least p. 13, lines 1-6); Thus, the server or client performing the alteration does not appear to hold patentable weight, especially with such distinction occurring in the preamble of said claims.

32. Applicants further argue that Ogdon fails to disclose identifying when the media stream has been resynchronized / globally unsynchronized.

However, applicants arguments are not persuasive. As originally cited (at least col. 3, lines 30-63), Ogden clearly discloses the streaming being dynamically altered to adapt to network characteristics for the real-time, synchronous presentation of the media to the clients, thus Ogdon inherently identifies synchronous relationships

between the streams when it dynamically presents the streams to the client to create a synchronous presentation.

Conclusion

33. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

34. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Newly cited Parasnisi et al in addition to previously cited Covell et al, Goldhor et al, Kinney et al, Teng et al, Bhola et al, Gupta et al '326, Moller, Hejna '688, Hejna '949, Craig, Yuang et al, Gupta et al '171 (**obvious-type non-statutory double patenting**), Hackeny et al, Guo et al, and Roberts et al are cited for disclosing pertinent information related to the claimed invention. Applicants are requested to consider the prior art reference for relevant teachings when responding to this office action.

35. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory G Todd whose telephone number is (703)305-5343. The examiner can normally be reached on Monday - Friday 9:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703)308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory Todd



Patent Examiner

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